

PAPERS

RELATIVE TO THE RESTRICTION OF

SLAVERY.

SPEECHES OF

MR. KING,

IN THE SENATE,

AND OF

MESSRS. TAYLOR & TALMADGE,

IN THE

HOUSE OF REPRESENTATIVES,

OF THE

UNITED STATES,

ON THE BILL FOR AUTHOURISING THE PEOPLE OF THE TERRITORY OF MISSOURI TO FORM A CONSTITUTION AND STATE GOVERNMENT, AND FOR THE ADMISSION OF THE SAME INTO THE UNION.

IN THE SESSION OF 1818—19.

WITH A

REPORT OF A COMMITTEE

OF THE

ABOLITION SOCIETY OF DELAWARE.

PHILADELPHIA.

PRINTED BY HALL & ATKINSON, 53, MARKET STREET.

1819.

DISCUSSIONS
OF
RUFUS KING,
ON THE MISSOURI BILL;

Being the substance of two Speeches delivered in the Senate of the United States, during the last session of Congress.

The constitution declares "that congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property of the United States." Under this power, congress have passed laws for the survey and sale of the public lands, for the division of the same into separate territories; and have ordained for each of them a constitution, a plan of temporary government, whereby the civil and political rights of the inhabitants are regulated, and the rights of conscience and other natural rights are protected.

The power to make all needful regulations, includes the power to determine what regulations are needful; and if a regulation prohibiting slavery within any territory of the United States be, as it has been, deemed needful, congress possess the power to make the same, and moreover to pass all laws necessary to carry this power into execution.

The territory of Missouri is a portion of Louisiana, which was purchased of France, and belongs to the United States in full dominion; in the language of the constitution, Missouri is their territory or property, and is subject, like other territories of the United States, to the regulations and temporary government, which has been, or shall be prescribed by congress. The clause of the constitution, which grants this power to congress, is so comprehensive, and unambiguous, and its purpose so manifest, that commentary will not render the power, or the object of its establishment, more explicit or plain.

The constitution further provides, "that new states may be admitted by congress into the union."—As this power is conferred without limitation, the time, terms, and circumstances of the admission of new states are referred to the discretion of congress; which may admit new states, but are not obliged to do so:—of right, no new state can demand admission into the union, unless such demand be founded upon some previous engagement of the United States.

When admitted by congress into the union, whether by compact or otherwise, the new state becomes entitled to the enjoyment of the same rights, and bound to perform the like duties as the other states—and its citizens will be entitled to all privileges and immunities of citizens in the several states.

The citizens of each state possess rights, and owe duties that are peculiar to, and arise, out of the constitution and laws of the several states. These rights and duties differ from each other in the different states; and among these differences none is so remarkable or important as that which proceeds from the constitution and laws of the several states respecting slavery;—the same being permitted in some states, and forbidden in others.

The question respecting slavery in the old thirteen states had been decided and settled before the adoption of the constitution, which gave no power to congress to interfere with, or to change what had been previously settled; the slave states therefore, are free to continue or to abolish slavery. Since the year 1808, congress have possessed power to prohibit and have prohibited the further migration or importation of slaves into any of the old thirteen states; and at

all times under the constitution have had power to prohibit such migration or importation into any of the new states, or territories of the United States. The constitution contains no express provisions respecting slavery in a new state that may be admitted into the union; every regulation upon this subject belongs to the power whose consent is necessary to the formation and admission of such state. Congress may, therefore, make it a condition of the admission of a new state, that slavery shall be forever prohibited within the same. We may with the more confidence pronounce this to be the true construction of the constitution, as it has been so amply confirmed by the past decisions of congress.

Although the articles of confederation were drawn up and approved by the old congress in the year 1777, and soon afterwards were ratified by some of the states, their complete ratification did not take place until the year 1781.—The states which possessed small and already settled territory, withheld their ratification, in order to obtain from the large states a cession to the United States of a portion of their vacant territory. Without entering into the reasons on which this demand was urged, it is well known that they had an influence on Massachusetts, Connecticut, New York, and Virginia; which states ceded to the United States their respective claims to the territory lying north west of the river Ohio. This cession was made on the express condition, that the ceded territory should be sold for the common benefit of the United States; that it should be laid out into states, and that the states so laid out should form distinct republican states, and be admitted as members of the federal union, having the same rights of sovereignty, freedom and independence as the other states. Of the four states which made this cession, two permitted, and the other two prohibited slavery.

The United States having in this manner become proprietors of the extensive territory north west of the river Ohio, although the confederations contained no express provision upon the subject, congress, the only representation of the United States, assumed, as incident to their office, the power to dispose of this territory; and for this purpose, to divide the same into distinct states, to provide for the temporary government of the inhabitants thereof, and for their ultimate admission, as new states, into the federal union.

The ordinance for these purposes, which was passed by congress in 1787, contains certain articles which are called—"Articles of compact between the original states, and the people and states within the said territory, forever to remain unalterable unless by common consent." The sixth of those unalterable articles provides "that there shall be neither slavery nor involuntary servitude in the said territory."

The constitution of the United States supplies the defect that existed in the articles of confederation; and has vested congress, as has been stated, with ample powers on this important subject. Accordingly, the ordinance of 1787, passed by the old congress, was ratified and confirmed by an act of the new congress, during their first session under the constitution.

The state of Virginia, which ceded to the United States her claims to this territory, consented by her delegates in the old congress, to this ordinance. Not only Virginia, but North Carolina, South Carolina, and Georgia, by the unanimous votes of their delegates in the old congress, approved of the ordinance of 1787 by which slavery is for ever abolished in the territory north west of the river Ohio. Without the votes of these states the ordinance could not have passed; and there is no recollection of an opposition from any of these states, to the act of confirmation passed under the actual constitution. Slavery had long been established in these states—the evil was felt in their institutions, laws and habits, and could not easily or at once be abolished. But these votes, so honourable to these states, satisfactorily demonstrate their unwillingness to permit the extension of slavery into the new states which might be admitted by congress into the union.

The states of Ohio, Indiana, and Illinois, on the north west of the river Ohio, have been admitted by congress into the union, on the condition and conformably to the articles of compact, contained in the ordinance of 1787, and by which it is declared that there shall be neither slavery nor involuntary servitude in any of the said states.

Although congress possess the power of making the exclusion of slavery a part or condition of the act admitting a new state into the union, they may in special cases, and for sufficient reasons, forbear to exercise this power. Thus Kentucky and Vermont were admitted as new states into the union, without making the abolition of slavery the condition of their admission. In Vermont slavery never existed; her laws excluding the same. Kentucky was formed out of and settled by Virginia; and the inhabitants of Kentucky equally with those of Virginia, by fair interpretation of the constitution, were exempt from all such interference of congress as might disturb or impair the security of their property in slaves. The western territory of North Carolina and Georgia, having been partially granted and erected under the authority of these states, before the cession thereof to the United States, and these states being original parties to the constitution, which recognises the existence of slavery, no measure restraining slavery could be applied by congress to this territory. But, to remove all doubts on this head, it was made a condition of the cession of this territory to the United States, that the ordinance of 1787, except the sixth article thereof, respecting slavery, should be applied to the same; and that the sixth article should not be so applied. Accordingly, the states of Tennessee, Mississippi, and Alabama, comprehending the territory ceded to the United States by North Carolina and Georgia, have been admitted, as new states, into the union, without a provision by which slavery shall be excluded from the same. According to this abstract of the proceedings of congress in the admission of new states into the union,—of the eight new states within the original limits of the United States, four have been admitted without an article excluding slavery; three have been admitted on the condition that slavery should be excluded; and one admitted without such condition. In the first four cases, congress were restrained from exercising the power to exclude slavery; in the next three, they exercised this power; and in the last, it was unnecessary to do so,—slavery being excluded by the state constitution.

The province of Louisiana, soon after its cession to the United States, was divided into two territories comprehending such parts thereof as were contiguous to the river Mississippi; being the only parts of the province that were inhabited. The foreign language, laws, customs and manners of the inhabitants, required the immediate and cautious attention of congress; which, instead of extending in the first instance, to these territories the ordinance of 1787, ordained special regulations for the government of the same. These regulations were from time to time revised and altered, as observation and experience shewed to be expedient, and as was deemed most likely to encourage and promote those changes which would soonest qualify the inhabitants for self-government and admission into the union. When the United States took possession of the province of Louisiana, in 1804, it was estimated to contain fifty thousand white inhabitants, forty thousand slaves, and two thousand free persons of colour.* More than four-fifths of the whites, and all the slaves, except about thirteen hundred, inhabited New Orleans and the adjacent territory: the residue, consisting of less than ten thousand whites, and about thirteen hundred slaves, were dispersed throughout the country now included in the Arkansas and Missouri territories. The greater part of

* This estimate was too high, as by the census of 1810, the whole province was found to contain only 97,000 inhabitants, viz:—51,000 whites, 37,000 slaves, 8,000 free persons of colour.

the thirteen hundred slaves were in the Missouri territory; some of them having been removed thither from the old French settlements on the east side of the Mississippi, after the passing of the ordinance of 1787, by which slavery in those settlements was abolished.

In 1812, the territory of New Orleans, to which the ordinance of 1787, with the exception of certain parts thereof, had been previously extended, was permitted by congress to form a constitution and state government; and admitted as a new state into the union, by the name of Louisiana. The acts of congress for these purposes, in addition to sundry important provisions respecting rivers and public lands, which are declared to be irrevocable unless by common consent, annex other terms and conditions whereby it is established, not only that the constitution of Louisiana should be republican, but that it should contain the fundamental principles of civil and religious liberty;—that it should secure to the citizens the trial by jury in all criminal cases, and the privilege of the writ of habeas corpus according to the constitution of the United States; and after its admission into the union, that the laws which Louisiana might pass should be promulgated, its records of every description preserved, and its judicial and legislative proceedings conducted, *in the language* in which the laws and judicial proceedings of the United States are published and conducted.

Guards so friendly to the rights of the citizens, and restraints on the state sovereignty so material to the gradual confirmation and security of their liberties, demonstrate the extensive and parental power of congress' powers, the wise exercise of which, on this occasion, is not confined to the inhabitants of the new state, but reaches and protects the rights of the citizens of all the states. The habits of the people and the number of slaves by whom the labour of the territory of New Orleans was performed, were doubtless the reasons for the omission of an article in the act of admission, by which slavery should be excluded from the new state.

Having annexed these new and extraordinary conditions to the act for the admission of Louisiana into the union, congress may, if they shall deem it expedient, annex the like conditions to the act for the admission of Missouri; and moreover, as in the case of Ohio, Indiana, and Illinois, provide by an article for that purpose, that slavery shall not exist within the same.

Admitting this construction of the constitution, it is alleged that the power by which congress excluded slavery from the states north west of the river Ohio, is suspended in respect to the states that may be formed in the province of Louisiana. The article of the treaty referred to declares, "That the inhabitants of the territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all rights, advantages and immunities of citizens of the United States; and in the mean time, they shall be maintained and protected in the free-enjoyment of their liberty, property, and the religion which they profess."

Although there is a want of precision in the article, its scope and meaning cannot be misunderstood. It constitutes a stipulation by which the United States engage that the inhabitants of Louisiana should be formed into a state or states, and as soon as the provisions of the constitution permit, that they shall be admitted as new states into the union, on the footing of the other states;—and before such admission, and during their territorial government, that they shall be maintained and protected by congress in the enjoyment of their liberty, property, and religion. The first clause of this stipulation will be executed by the admission of Missouri as a new state into the union; as such admission will impart to the inhabitants of Missouri, "all the rights, advantages, and immunities" which citizens of the United States derive from the constitution thereof;—these rights may be denominated federal rights, are uniform throughout the union, and are common to all its citizens. But

the rights derived from the constitution and laws of the states, which may be denominated state rights, in many particulars differ from each other. Thus, while the federal rights of the citizens of Massachusetts and Virginia are the same, their state rights are however dissimilar,—slavery being forbidden in one, and permitted in the other state. This difference arises out of the constitutions and laws of the two states, in the same manner as the difference in the rights of the citizens of these states to vote for representatives in congress arises out of the state laws and constitution: in Massachusetts, every person of lawful age, and possessing property of any sort, of the value of two hundred dollars, may vote for representatives to congress;—in Virginia, no person can vote for representatives to congress unless he be a freeholder. As the admission of a new state into the union confers upon its citizens only the rights denominated federal, and as these are common to the citizens of all the states, as well of those in which slavery is prohibited, as of those in which it is allowed, it follows that the prohibition of slavery in Missouri will not impair the federal rights of its citizens; and that such prohibition is not restrained by the clause of the treaty which has been cited.

The remaining clause of the article is expressly confined to the period of the territorial government of Missouri—to the time between the first occupation of the country by the United States, and its admission as a new state into the union. Whatever may be its import it has no reference nor application to the terms of the admission, or to the condition of Missouri after it shall have been admitted into the union. The clause is but the common formula of treaties, by which inhabited territories are passed from one sovereign to another: its object is to secure to such inhabitants the permanent or temporary enjoyment of their former liberties, property and religion; leaving to the new sovereign, full power to make such regulations respecting the same, as may be thought expedient; provided these regulations be not incompatible with the stipulated security.

What were the liberties under the French government, the enjoyment of which under ours called for protection, we are unable to explain: As the United States have no power to prevent the free enjoyment of the Catholic religion, no stipulation against their interference to disturb it could be necessary; and the only part of the clause whose object can be readily understood, is that relative to "property."

As all nations do not permit slavery, the term property in its common and universal meaning, does not include or describe slaves. In treaties therefore between nations, and especially in those of the United States, whenever stipulations respecting slaves were to be made, the word "negroes," or "slaves," has been employed; and the omission of these words in this clause, increases the uncertainty whether by the term property, slaves were intended to be included. But admitting that such was the intention of the parties, the stipulation is not only temporary, but extends no further than to the property actually possessed by the inhabitants of Missouri, when it was first occupied by the United States: Property since acquired by them, and property acquired or possessed by the new inhabitants of Missouri, has in each case been acquired under the laws of the United States; and not during and under the laws of the province of Louisiana. Should, therefore, the future introduction of slaves into Missouri be forbidden, the feelings of the citizens would soon become reconciled to their exclusion; and the inconsiderable number of slaves owned by the inhabitants at the date of the cession of Louisiana, would be emancipated or sent for sale into states where slavery exists.

It is further objected, that the article of the act of admission into the union, by which slavery should be excluded from Missouri, would be nugatory, as the new state in virtue of its sovereignty, would be at liberty to revoke its consent and annul the article by which slavery should be excluded.

Such revocation would be contrary to the obligations of good faith, which enjoins the observance of our engagements—it would be repugnant to the principles upon which government itself is founded: Sovereignty in every lawful government is a limited power, and can do only what it is lawful to do—sovereigns, like individuals, are bound by their engagements, and have no moral power to break them. Treaties between nations repose on this principle. If the new state can revoke and annul an article concluded between itself and the United States, by which slavery is excluded from it, it may revoke and annul any other article of the compact: it may for example annul the article respecting public lands; and in virtue of its sovereignty, assume the right to tax and to sell the lands of the United States.

There is yet a more satisfactory answer to this objection. The judicial power of the United States is co-extensive with their legislative power; and every question arising under the constitution or laws of the United States, is cognizable by the judiciary thereof. Should the new state rescind any of the articles of compact contained in the act of admission into the union, that for example by which slavery is excluded, and should pass a law authorising slavery, the judiciary of the United States, on proper application, would immediately deliver from bondage, any person detained as a slave in said state; and in like manner, in all instances affecting individuals, the judiciary might be employed to defeat every attempt to violate the constitution and laws of the United States.

If congress possesses the power to exclude slavery from Missouri, it still remains to be shewn that they ought to do so. The examination of this branch of the subject, for obvious reasons, is attended with peculiar difficulty, and cannot be made without passing over arguments which to some of us might appear to be decisive, but the use of which, in this place, would call up feelings, the influence of which would disturb, if not defeat the impartial consideration of the subject.

Slavery unhappily exists within the United States. Enlightened men in the states where it is permitted, and every where out of them, regret its existence among us, and seek for the means of limiting and of mitigating it. The first introduction of slaves, is not imputable to the present generation, nor even to their ancestors. Before the year 1642, the trade and ports of the colonies were open to foreigners equally as those of the mother country; at as early as 1620, a few years only after the planting of the colony of Virginia, and the same year in which the first settlement was made in the old colony of Plymouth, a cargo of negroes was brought in and sold as slaves in Virginia, by a foreign ship.* From this beginning, the importation of slaves was continued for nearly two centuries.—To her honour, Virginia, while a colony, opposed the importation of slaves, and was the first state to prohibit the same, by a law passed for this purpose in 1778, thirty years before the general prohibition enacted by congress in 1808. The laws and customs of the states in which slavery has existed for so long a period, must have had their influence on the opinions and habits of the citizens; which ought not to be disregarded on the present occasion.

Omitting therefore, the arguments which might be urged, and which by all of us might be deemed conclusive, were this an original question, the reasons which shall be offered in favor of the interposition of the power of congress to exclude slavery from Missouri, shall be only such as respect the common defence, the general welfare, and that wise administration of the government which as far as possible may produce the impartial distribution of benefits and burdens throughout the union.

By the article of confederation the common treasury was to be supplied by the several states according to the value of the lands, with the houses and

* Stith's History of Virginia.

improvements thereon, within the respective states. From the difficulty in making this valuation, the old congress were unable to apportion the requisitions for the supply of the general treasury; and obliged to propose to the states an alteration of the articles of confederation--by which the whole number of free persons, with three fifths of the slaves, contained in the respective states, should become the rule of such apportionment of the taxes. A majority of the states approved of this alteration, but some of them disagreed to the same; and for want of a practicable rule of apportionment, the whole of the requisitions of taxes made by congress during the revolutionary war, and afterwards, up to the establishment of the constitution of the United States, were merely provisional, and subject to revision and correction as soon as such rules should be adopted. The several states were credited for their supplies, and charged for the advances made to them by congress; but no settlement of their accounts could be made, for the want of a rule of apportionment, until the establishment of the constitution.

When the general convention that formed the constitution took this subject into their consideration, the whole question was once more examined; and while it was agreed that all contributions to the common treasury should be made according to the ability of the several states to furnish the same, the old difficulty recurred in agreeing upon a rule whereby such ability should be ascertained;—there being no simple standard by which the ability of individuals to pay taxes can be ascertained. A diversity in the selection of taxes has been deemed requisite to their equalization. Between communities, this difficulty is less considerable; and although the rule of relative numbers would not accurately measure the relative wealth of nations; in states in the circumstances of the United States, whose institutions, laws and employments are so much alike, the rule of number is probably as nearly equal, as any other simple and practicable rule can be expected to be;—(though between the old and new states its equity is defective.)—These considerations, added to the approbation which had already been given to the rule by a majority of the states, induced the convention to agree, that direct taxes should be apportioned among the states, according to the whole number of free persons, and three fifths of the slaves which they might respectively contain.

The rule for apportionment of taxes, is not necessarily the most equitable rule, for the apportionment of representatives among the states;—property must not be disregarded in the composition of the first rule; but frequently is overlooked in the establishment of the second:—a rule which might be approved in respect to taxes, would be disapproved in respect to representatives; one individual possessing twice as much property as another, might be required to pay double the taxes of such other; but no man has two votes to another's one;—rich or poor, each has but a single vote in the choice of representatives.

In the dispute between England and the colonies, the latter denied the right of the former to tax them, because they were not represented in the English Parliament. They contended, that according to the law of the land, taxation and representation were inseparable. The rule of taxation being agreed upon by the convention, it is possible that the maxim with which we successfully opposed the claim of England, may have had an influence in procuring the adoption of the same rule for the apportionment of representatives: the true meaning, however, of this principle of the English constitution, is, that a colony or district is not to be taxed which is not represented; not that its number or representatives shall be ascertained by its quota of taxes. If three fifths of the slaves are virtually represented, or their owners obtain a disproportionate power in legislation, and in the appointment of the president of the United States, why should not other property

be virtually represented, and its owner obtain a like power in legislation, and in the choice of the president—Property is not confined to slaves, but exists in houses, stores, ships, capital in trade and manufactures. To secure to the owners of property in slaves, greater political power than is allowed to the owners of other and equivalent property, seems to be contrary to our theory of the equality of personal rights; inasmuch as the citizens of some states thereby become entitled to other and greater political power, than the citizens of other states. The present house of representatives consists of one hundred and eighty-one members; which are apportioned among the states in a ratio of one representative for every thirty-five thousand federal numbers, which are ascertained by adding to the whole number of free persons, three fifths of the slaves. According to the last census, the whole number of slaves within the United States was 1,191,364; which entitled the states possessing the same, to twenty representatives, and twenty presidential electors more than they would be entitled to, were the slaves excluded. By the last census, Virginia contained 582,104 free persons, and 372,318 slaves. In any of the states where slavery is excluded, 582,104 free persons would be entitled to elect only sixteen representatives; while in Virginia, 582,104 free persons, by the addition of three fifths of her slaves, becomes entitled to elect, and do in fact elect, twenty-three representatives;—being seven additional ones on account of her slaves. Thus, while 35,000 free persons are requisite to elect one representative in a state where slavery is prohibited, 35,559 free persons in Virginia, may and do elect a representative—so that five free persons in Virginia, have as much power in the choice of representatives to congress, and in the appointment of presidential electors, as seven free persons in any of the states in which slavery does not exist.

This inequality in the apportionment of representatives was not misunderstood at the adoption of the constitution—but as no one anticipated the fact that the whole of the revenue of the United States would be derived from indirect taxes, (which cannot be supposed to spread themselves over the several states according to the rule for the apportionment of direct taxes,) it was believed that a part of the contribution to the common treasury would be apportioned among the states by the rule for the apportionment of representatives. The states in which slavery is prohibited, ultimately, though with reluctance, acquiesced in the disproportionate number of representatives and electors that was secured to the slave holding states. The concession was, at the time, believed to be a great one; and has proved to have been the greatest which was made to secure the adoption of the constitution.

Great, however, as this concession was, it was definite; and its full extent was comprehended. It was a settlement between the original thirteen states. The considerations arising out of their actual condition, their past connection, and the obligation which all felt to promote a reformation in the federal government, were peculiar to the time and to the parties; and are not applicable to the new states, which congress may now be willing to admit into the union.

The equality of rights, which includes an equality of burdens, is a vital principle in our theory of government; and its jealous preservation is the best security of public and individual freedom: the departure from this principle in the disproportionate power and influence, allowed to the slave holding states, was a necessary sacrifice to the establishment of the constitution. The effect of this concession has been obvious in the preponderance which it has given to the slave holding states, over the other states. Nevertheless, it is an ancient settlement; and faith and honour stand pledged not to disturb it. But the extension of this disproportionate power to the new states would be unjust and odious. The states whose power would be

abridged, and whose burdens would be increased by the measure, cannot be expected to consent to it; and we may hope that the other states are too magnificious to insist on it.

The existence of slavery impairs the industry and the power of a nation; and it does so in proportion to the multiplication of its slaves: where the manual labour of a country is performed by slaves, labour dishonours the lands of freemen.

If her labourers are slaves, Missouri may be able to pay money taxes, but will be unable to raise soldiers, or to recruit seamen, and experience seems to have proved that manufactures do not prosper where the artificers are slaves. In case of foreign war, or domestic insurrection, misfortunes from which no states are exempt, and against which all should be seasonably prepared, slaves not only do not add to, but diminish the faculty of self defence: instead of increasing the public strength, they lessen it, by the whole number of free persons, whose place they occupy, increased by the number of free men that may be employed as guards over them.

The motives for the admission of new states into the union, are the extension of the principles of our free government, the equalizing of the public burdens, and the consolidation of the power of the confederated nation. Unless these objects be promoted by the admission of new states, no such admission can be expedient or justified.

The states in which slavery already exists are contiguous to each other: they are also the portion of the United States nearest to the European colonies in the West Indies;—colonies whose future condition can hardly be regarded as problematical. If Missouri and the other states that may be formed to the west of the river Mississippi are permitted to introduce and establish slavery, the repose, if not the security of the union, may be endangered; all the states south of the river Ohio and west of Pennsylvania and Delaware will be peopled with slaves and the establishment of new states west of the river Mississippi will serve to extend slavery instead of freedom over that boundless region.

Such increase of the states, whatever other interest it may promote, will be sure to add nothing to the security of the public liberties; and can hardly fail hereafter to require and produce a change in our government.

On the other hand, if slavery be excluded from Missouri, and the other new states which may be formed in this quarter, not only will the slave markets be broken up, and the principles of freedom be extended and strengthened; but an exposed and important frontier will present a barrier, which will check and keep back foreign assailants, who may be as brave, and, as we hope, will be as free as ourselves. Surrounded in this manner by connected bodies of freemen, the states where slavery is allowed will be made more secure against domestic insurrection, and less liable to be affected by what may take place in the neighbouring colonies.

It ought not be forgotten, that the first and main object of the negotiation which led to the acquisition of Louisiana, was the free navigation of the Mississippi; a river that forms the sole passage from the western states to the ocean. This navigation, although of general benefit, has been always valued and desired, as of peculiar advantage to the western states; whose demands to obtain it, were neither equivocal nor unreasonable. But with the river Mississippi,—by a sort of *coercion*, we acquired by good or ill fortune, as our future measures shall determine, the whole province of Louisiana. As this acquisition was made at the common expense, it is very fairly urged, that the advantages to be derived from it should also be common. This it is said will not happen, if slavery be excluded from Missouri, as the citizens of states where slavery is permitted will be shut out, and none but citizens of states where slavery is prohibited can become inhabitants of Missouri.

But this consequence will not arise from the proposed exclusion of slavery: the citizens of states, in which slavery is allowed, like all other citizens, will be free to become inhabitants of the Missouri, in like manner as they have become inhabitants of Ohio, Indiana and Illinois, in which slavery is forbidden. The exclusion of slaves from Missouri, will not therefore operate unequally among the citizens of the United States. The constitution provides, "that the citizens of each state shall be entitled to enjoy all the rights and immunities of citizens of the several states"—every citizen may therefore remove from one to another state, and there enjoy the rights and immunities of its citizens. The proposed provision excludes slaves, not citizens, whose rights it will not, and cannot impair.

Besides there is nothing new or peculiar in a provision for the exclusion of slavery: it has been established in the states north west of the river Ohio, and has existed from the beginning in the old states where slavery is forbidden. The citizens of states where slavery is allowed, may become inhabitants of Missouri, but cannot hold slaves there, nor in any other state where slavery is prohibited. As well might the laws prohibiting slavery in the old states become the subject of complaint, as the proposed exclusion of slavery in Missouri; but there is no foundation for such complaint in either case. It is further urged, that the admission of slaves into Missouri would be limited to the slaves who are already within the United States; that their health and comfort would be promoted by their dispersion; and that their numbers would be the same, whether they remain confined to the states where slavery exists, or are dispersed over the new states that may be admitted into the Union.

That none but domestic slaves would be introduced into Missouri, and the other new and frontier states, is most fully disproved by the thousands of fresh slaves, which, in violation of our laws, are annually imported into Alabama, Louisiana and Mississippi.

We may renew our efforts, and enact new laws with heavier penalties, against the importation of slaves: the revenue cutters may more diligently watch our shores; and the naval force may be employed on the coast of Africa, and on the ocean to break up the slave trade—but these means will not put an end to it: so long as markets are open for the purchase of slaves, so long they will be supplied: and so long as we permit the existence of slavery in our new and frontier states, so long slave markets will exist. The plea of humanity is equally inadmissible; since no one who has ever witnessed the experiment, will believe, that the condition of slaves is made better by the breaking up, and separation of their families, nor by their removal from the old states to the new ones; and the objection to the provision of the bill excluding slavery from Missouri, is equally applicable to the like prohibitions of the old states: these should be revoked in order that the slaves, now confined to certain states, may, for their health, and comfort, and multiplication, be spread over the whole union.

That the condition of slaves within the United States has been improved, and the rigours of slavery mitigated, by the establishment and progress of our free governments, is a fact that imparts consolation to all who have taken pains to inquire concerning it. The disproportionate increase of free persons of colour, can be explained only by the supposition that the practice of emancipation is gaining ground;—a practice which there is reason to believe would become more general, if a plan could be devised by which the comfort and morals of the emancipated slaves could be satisfactorily provided for: for it is not to be doubted that public opinion every where, and especially in the oldest states of the union, is less favourable than formerly to the existence of slavery. Generous and enlightened men in the states where slavery exists, have discovered much solicitude on the subject: a desire has been manifested that emancipation might be encouraged by the establishment of a place, or colony

without the United States, to which free persons of colour might be removed; and great efforts for that purpose are making, with a correctness anxiety for their success. These persons, enlightened and humane as they are known to be, surely will be unwilling to promote the removal of the slaves from the old states to the new ones; where their comforts will not be multiplied, and where their settlers may be riveted for ever.

Slavery cannot exist in Missouri without the consent of congress; the question may therefore be considered, in certain lights, as a new one,—it being the first instance in which an enquiry respecting slavery, in a case so free from the influence of the ancient laws, usages, and manners of the country, has come before the senate.

The territory of Missouri is beyond our ancient limits; and the inquiry whether slavery shall exist there, is open to many of the arguments that might be employed, had slavery never existed within the United States. It is a question of no ordinary importance. Freedom and slavery are the parties which stand this day before the senate; and upon its decision the empire of the one or the other will be established in the new state which we are about to admit into the union.

If slavery be permitted in Missouri, with the climate, and soil, and in the circumstances of this territory, what hope can be entertained that it will ever be prohibited in any of the new states that will be formed in the immense region west of the Mississippi? Will the co-extensive establishment of slavery and of new states throughout this region, lessen the danger of domestic insurrection, or of foreign aggression? Will this manner of executing the great trust of admitting new states into the union, contribute to assimilate our manners and usages; to increase our mutual affection and confidence; and to establish that equality of benefits and burthens which constitutes the true basis of our strength and union?—Will the militia of the nation, which must furnish our soldiers and seamen, increase as slaves increase? Will the actual disproportion in the military service of the nation be thereby diminished? a disproportion that will be, as it has been, readily borne, as between the original states; because it arises out of their compact of union; but which may become a badge of inferiority, if required for the protection of those who, being free to choose, persist in the establishment of maxims, the inevitable effect of which will deprive them of the power to contribute to the common defence, and even of the ability to protect themselves. There are limits within which our federal system must stop; no one has supposed that it could be indefinitely extended—we are now about to pass our original boundary; if this can be done without affecting the principles of our free government, it can be accomplished only by the most vigilant attention to plant, cherish and sustain the principles of liberty in the new states that may be formed beyond our ancient limits: with our utmost caution in this respect, it may still be justly apprehended that the general government must be made stronger as we become more extended.

But if, instead of freedom, slavery is to prevail, and spread as we extend our dominion, can any reflecting man fail to see the necessity of giving to the general government greater powers, to enable it to afford the protection that will be demanded of it;—powers that will be difficult to controul, and which may prove fatal to the public liberties.

SPEECH OF MR. TAYLOR.

Mr. Chairman—If the few citizens who now inhabit the territory of Missouri were alone interested in the decision of this question, I should content myself with voting in favour of the amendment, without occupying for a moment the attention of this committee. But the fact is far otherwise: those whom we shall authorize to set in motion the machine of free government beyond the Mississippi, will, in many respects, decide the destiny of millions. Cast your eye on that majestic river which gives name to the territory, for the admission of which into the union we are about to provide: trace its meanderings, through fertile regions of more than two thousand miles; cross the Rocky Mountains, and descend the navigable waters which empty into the Western Ocean; contemplate the states hereafter to unfurl their banners over this fair portion of America; the successive generations of freemen who there shall adorn the arts, enlarge the circle of science, and improve the condition of our species. Having taken this survey, you will be able in some measure, to appreciate the importance of the subject before us. Our votes this day will determine whether the high destinies of this region, and of these generations, shall be fulfilled; or whether we shall defeat them by permitting slavery, with all its baneful consequences, to inherit the land. Let the magnitude of this question plead my apology, while I briefly address a few considerations to the sober judgment of patriots and statesmen.

I will not stop to examine the policy of extending our settlements into the wilderness, with the astonishing rapidity which has marked their progress, leaving within our ancient borders an extensive country, unsubdued by the hand of man. This enquiry, although intimately connected with the subject, would too much extend the range of discussion at this late period of the session. I, however, cannot forbear reminding gentlemen that but a few years have elapsed since the opinion was often expressed, and earnestly inculcated, by our wisest and best men, that no locations ought to be made beyond the Mississippi, until the original states, and their territories should acquire a population of considerable compactness and strength; and that our military posts should not be pushed forward faster than was necessary to protect the frontier settlements. A policy embracing more enlarged ideas, and more magnificent projects, appears to have succeeded. We now talk of forts at the mouth of the Yellow Stone, and military establishments, some fifteen or twenty hundred miles in the Indian country, as objects of reasonable and easy achievement. An honourable member from Virginia has this morning presented a petition from sundry inhabitants of that state, praying of congress, permission to settle on Columbia river, between the Rocky Mountains and the Pacific Ocean—probably intending to introduce slavery into the remotest verge of our republican territory. I pass over these subjects, however momentous, and well deserving the attention of congress, and come directly to the points in issue.

First—Has congress power to require of Missouri a constitutional prohibition against the further introduction of slavery, as a condition of her admission into the union?

Second—If the power exists, is it wise to exercise it?

Congress has no power unless it be expressly granted by the constitution, or necessary to the execution of some power clearly delegated. What then

are the grants made to congress in relation to the territories? The third section of the fourth article declares, that "the congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property, belonging to the United States." It would be difficult to devise a more comprehensive grant of power. The whole subject is put at the disposal of congress—as well as the right of judging what regulations are proper to be made, as the power of making them, is clearly granted. Until admitted into the union, this political society is a territory; all the preliminary steps relating to its admission are territorial regulations. Hence in all such cases, congress has exercised the power of determining by whom the constitution shall be made—how its framers should be elected—when and where they should meet—and what propositions should be submitted to their decision. After its formation, the congress examine its provisions, and, if approved, admit the state into the union, in pursuance of a power delegated by the same section of the constitution, in the following words: "new states may be admitted by the congress into the union." This grant of power is evidently alternative; its exercise is committed to the sound discretion of congress; no injustice is done by declining it. But if congress has the power of altogether refusing to admit new states, much more has it the power of prescribing such conditions of admission as may be judged reasonable. The exercise of this power, until now, has never been questioned. The act of 1802, under which Ohio was admitted into the union, prescribed the condition that its constitution should not be repugnant to the ordinance of 1787. The sixth article of that ordinance declares "there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted." The same condition was imposed by congress on the people of Indiana and Illinois. These states have all complied with it, and framed constitutions excluding slavery. Missouri lies in the same latitude. Its soil, productions and climate are the same, and the same principles of government should be applied to it.

But it is said, that, by the treaty of 1803, with the French republic, congress is restrained from imposing this condition. The third article is quoted as containing the prohibition. It is in the following words: "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The inhabitants of the ceded territory, when transferred from the French republic, in regard to the United States, would have stood in the relation of aliens. The object of the article doubtless was to provide for their admission to the rights of citizens, and their incorporation into the American family. The treaty made no provision for the erection of new states in the ceded territory. That was a question of national policy, properly reserved for the decision of those to whom the constitution had committed the power. The framers of the treaty well knew that the President and Senate could not bind Congress to admit new states into the union. The unconstitutional doctrine had not been then broached, that the President and Senate could not only purchase a West India island, or an African principality, but also impose upon congress an obligation to make it an independent state, and admit it into the union. If the President and Senate can, by treaty, change the constitution of the United States and rob congress of a power clearly delegated, the doctrine may be true; but otherwise, it is false. The treaty, therefore, has no operation on the question in debate. Its requirements, however, have been faithfully fulfilled. In 1804, the laws of the United States were extended to that territory. The protection afforded by the federal constitution was guaranteed to its inhabitants.

They were thus "incorporated in the union," and secured in the enjoyment of their rights. The treaty stipulation being thus executed, "as soon as possible," it remained a question for the future determination of congress, whether the government should remain territorial, or become that of an independent state. In 1811, this question was decided in relation to that part of the territory which then embraced nearly all the population, and to acquire which, alone, the treaty had been made. A law was passed to enable the people of the territory of Orleans, to form a constitution and state government, and to provide for its admission into the union. Did congress then doubt its power to annex conditions to such admission? No, sir, far from it. The government of Orleans had always been administered according to the principles of the civil law. The common law, so highly valued in other parts of our country, was not recognised there. Trial by jury was unknown to the inhabitants. Instead of a privilege, they considered its introduction an odious departure from their ancient administration of justice. Left to themselves, they never would have introduced it. Congress, however, knowing these things, made it a condition of their admission into the union, that trial by jury should be secured to the citizen by a constitutional provision. Even the language of the territory was required to be changed, as a condition of its admission. The inhabitants were wholly French and Spanish. Theirs were the only language generally spoken, or even understood. But congress required from them a constitutional provision, that their legislative and judicial proceedings should be conducted in the English language. They were not left at liberty to determine this point for themselves. From these facts, it appears that congress, at that day, acted from a conviction that it possessed the power of prescribing the conditions of their admission into the union.

Gentlemen have said the amendment is in violation of the treaty, because it impairs the property of a master in his slave. Is it then pretended, that notwithstanding the declaration in our bill of rights, "that all men are created equal," one individual can have a vested property, not only in the flesh and blood of his fellow man, but also in generations not yet called into existence? Can it be believed that the supreme legislature has no power to provide rules and regulations for ameliorating the condition of future ages? And this, too, when the constitution itself has vested in congress full sovereignty, by authorising the enactment of whatever law it may deem conducive to the welfare of the country? The sovereignty of congress in relation to the states, is limited by specific grants; but in regard to the territories, it is unlimited. Missouri was purchased with our money; and, until incorporated into the family of states, it may be sold for money. Can it then be maintained, that although we have the power to dispose of the whole territory, we have no right to provide against the further increase of slavery within its limits? That, although we change the political relations of its free citizens by transferring their country to a foreign power, we cannot provide for the gradual abolition of slavery within its limits; nor establish those civil regulations which naturally flow from self-evident truth? No, sir, it cannot—the practice of nations, and the common sense of mankind, have long since decided these questions.

Having proved, as I apprehend, our right to legislature in the manner proposed, I proceed to illustrate the propriety of exercising it. And here I might rest satisfied with reminding my opponents of their own declarations on the subject of slavery. How often, and how eloquently, have they deplored its existence among them! What willingness, nay, what solicitude have they not manifested to be relieved from this burden! How have they wept over the unfortunate policy that first introduced slaves into this country! How have they disclaimed the guilt and shame of that original sin, and thrown it back upon their ancestors! I have with pleasure heard these avowals of regret and confided in their sincerity; I have hoped to see its effects in

the advancement of the cause of humanity. Gentlemen have now an opportunity of putting their principles into practice: if they have tried slavery and found it to be a curse; if they desire to dissipate the gloom with which it covers their land; I call upon them to exclude it from the territory in question: plant not its seeds in this uncorrupt soil; let not our children, looking back to the proceeding of this day, say of them, as they have been constrained to speak of their fathers, "we wish their decision had been different; we regret the existence of this unfortunate population among us; but we found them here; we know not what to do with them; it is our misfortune, we must bear it with patience."

History will record the decision of this day as exerting its influence for centuries to come over the population of half our continent. If we reject the amendment, and suffer this evil, now easily eradicated, to strike its root so deep in the soil that it cannot be removed, shall we not furnish some apology for doubting our sincerity, when we deplore its existence?—shall we not expose ourselves to the same kind of censure which was pronounced by the Saviour of mankind upon the scribes and pharisees, who builded the tombs of the prophets and garnished the sepulchres of the righteous, and said if they had lived in the days of their fathers, they would not have been partakers with them in the blood of the prophets; while they manifested a spirit which clearly proved them the legitimate descendants of those who killed the prophets, and thus filled up the measure of their fathers' iniquity?

Mr. Chairman, one of the gentlemen from Kentucky, (Mr. Clay,) has pressed into his service the cause of humanity. He has pathetically urged us to withdraw our amendment, and suffer this unfortunate population to be dispersed over the country. He says they will be better fed, clothed and sheltered; and their whole condition will be greatly improved. The humanity to which he appeals, is base coin: it is counterfeit:—it is that humanity which seeks to palliate partial disease by the application of nostrums, which scatter its seeds through the whole system—which eaves a finger to-day, but amputates the arm to-morrow. Sir, my heart responds to the call of humanity: I will zealously unite in any practicable means of bettering the condition of this oppressed people. I am ready to appropriate a territory to their use, and to aid them in settling it; but I am not willing, I never will consent to declare the whole country west of the Mississippi a market over for human flesh. In vain will you enact severe laws against the importation of slaves, if you create them an additional demand, by opening the western world to their employment. While a negro man is bought in Africa for a few gewgaws or a bottle of whiskey, and sold at New Orleans for twelve or fifteen hundred dollars, avarice will stimulate to the violation of your laws. Notwithstanding the penalties and confiscations denounced in your statutes, and actually enforced on all detected offenders, the slave trade continues—a vigilant execution of the laws may diminish it, but while you increase the demand; and offer so great temptation to the cupidity of unprincipled men, they will encounter every peril in the prosecution of this unhallowed traffic.

The gentleman from Kentucky has intimated his willingness, in addition to the existing penalties upon transgression, to discourage this inhuman commerce by declaring the imported slave to be free. This provision, if established, would in theory provide some remedy for the evil; but in practice it would be found altogether ineffectual. A slave is smuggled into the country and by law becomes free; but the fact of importation must be established by witnesses in a court of justice. In non-slave holding states, all men are presumed free, until the contrary be proved; but where slavery is established, all black men are presumed slaves, until they are proved free. This presumption alone would generally present to the slave an insuperable obstacle to the successful prosecution of his claim. The master would be poor, un-

friended, ignorant of our language, and under the watchful eye of those whose interest it would be, to allow no communication of his wrongs where redress could be obtained. The right of freedom might exist, but he would find it impracticable to enforce it; and he probably would have occasion to feel that every effort to break his chains, only increase their weight, and render his condition the more intolerable.

To the objection that this amendment will, if adopted, diminish the value of a species of property in one portion of the union, and thereby operate unequally, I reply, that if, by depriving slave holders of the Missouri market, the business of raising slaves should become less profitable, it would be an effect incidentally produced; but is not the object of the measure. The law prohibiting the importation of foreign slaves was not passed for the purpose of enhancing the value of those then in the country, but that effect has been incidentally produced in a very great degree. So now the exclusion of slavery from Missouri may operate, in some measure, to retard a further advance of prices; but surely, when gentlemen consider the present demand for their labour, and the vast extent of country in Louisiana, Mississippi, and Alabama, requiring a supply, they ought not to oppose their exclusion from the territory in question. It is further objected, that the amendment is calculated to disfranchise our brethren of the south, by discouraging their emigration to the country west of the Mississippi. If it were proposed to discriminate between citizens of the different sections of our union, and allow a Pennsylvanian to hold slaves there, while the power was denied to a Virginian, the objection might very properly be made; but, when we place all on an equal footing, denying to all what we deny to one, I am unable to discover the injustice or inequality of which honourable gentlemen have thought proper to complain. The description of emigrants may be affected, in some measure, by the amendment in question. If slavery shall be tolerated, the country will be settled by rich planters, with their slaves; if it shall be rejected, the emigrants will chiefly consist of the poorer and more laborious classes of society. If it be true that the prosperity and happiness of a country ought to constitute the grand object of its legislators, I cannot hesitate for a moment which species of population deserves most to be encouraged by the laws we may pass. Gentlemen, in their zeal to oppose the amendment, appear to have considered but one side of the case. If the rejection of slavery will tend to discourage emigration from the south, will not its admission have the same effect in relation to the north and east? Whence came the people who, with a rapidity never before witnessed, have changed the wilderness between the Ohio and Mississippi into fruitful fields; who have erected there in a period almost too short for the credibility of future ages, three of the freest and most flourishing states in our union? They came from the eastern hive; from that source of population which, in the same time, has added more than one hundred thousand inhabitants to my native state, and furnished seamen for a large portion of the navigation of the world;—seamen who have unfurled your banner in every port to which the enterprize of man has gained admittance; and who, though poor themselves, have drawn rich treasure for the nation from the bosom of the deep. Do you believe then that these people will settle in a country where they must take rank with negro slaves? Having neither the ability nor will to hold slaves themselves, they labour cheerfully while labour is honourable; make it disgraceful, they will despise it. You cannot degrade it more effectually than by establishing a system whereby it shall be performed principally by slaves. The business in which they are generally engaged, be it what it may, soon becomes debased in public estimation. It is considered low, and unfit for freemen. I cannot better illustrate this truth than by referring to a remark of the honourable gentleman from Kentucky, (Mr. Clay.) I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices; yet with what abhorrence did he speak of the performance, by our

wives and daughters in the domestic offices, which he was pleased to call servile. What was the difference made between the "black slaves" of Kentucky and the slaves of the north; and how instantly did he strike a balance in favor of the abolition of the former!

If such opinions as I express, even in the ardour of debate, can fall from that honourable gentleman; what ideas do you suppose are entertained of labouring men by the majority of slaveholders? A gentleman from Virginia, (Mr. Barbour,) replies they are treated with confidence and esteem; and their rights are respected. Sir, I did not imagine they were put out of the protection of the law. They are doubtless secure from violence; or, if injured, the courts of justice are opened for redress. But in a country like this, where the people are sovereign, and every citizen is entitled to equal rights, the mere exemption from flagrant wrong is no great privilege. In this country, no class of freemen should be excluded, either by law, or by the ostracism of public opinion, more powerful than law, from competing for offices and political distinctions. Sir, a humane master will respect the rights of his slave; and if worthy, will honour him with confidence and esteem. And this same measure, I apprehend, is dealt out, in slave holding states, to the labouring class of their white population. But whom of that class have they ever called to fill stations of any considerable responsibility? When have we seen a representative on this floor, from that section of our union, who was not a slave holder? Who but slave holders are elected to their state legislatures? Who but they, are appointed to fill their executive and judicial offices? I appeal to gentlemen, whether the selection of a labouring man, however well educated, would not be considered an extraordinary event? For this I do not reproach my brethren of the south. They doubtless choose those to represent them in whom they most confide; and far be it from me to intimate that their confidence is ever misplaced. But my objection is to the introduction of a system which cannot but produce the effect of rendering labour disgraceful.

An argument has been urged by a gentleman from Virginia, (Mr. Barbour,) against the proposed amendment, connected with our revenues. He said, that by prohibiting the further introduction of slaves into the proposed state, we should reduce the price, and diminish the sales of our public lands. In my opinion, the effect would be precisely the reverse. True it is, that lands for cultivation have sold higher in Alabama than in Illinois; but this is owing, not to the rejection of slavery, in the one, and its admission into the other; but to the different staples they are capable of producing. The advance of cotton has created in market a demand for lands suited to its cultivation, and enhanced their value far beyond any former precedent. But to test the truth of the position, we must ascertain the relative value of land in adjoining states, (the one allowing, and the other rejecting slavery,) where the climate, soil, productions, and advantages of market are similar. Pennsylvania and Maryland furnish fair specimens of comparison in all these respects. But here the result is in direct opposition to the conjecture of the gentleman from Virginia. Lands on the Pennsylvania side of the line, where the power of holding slaves does not exist, uniformly sell at a higher price than lands of equal quality on the Maryland side, where the power is in full exercise. It therefore is probable that the further introduction of slavery into Missouri, far from increasing, would actually diminish the value of our public lands. But, should the fact be otherwise, I entreat gentlemen to consider whether it becomes the high character of an American Congress to barter the present happiness and future safety of unborn millions, for a few pieces of pelf, for a few cents on an acre of land. For myself, I would no sooner contaminate the national treasury, with such ill-gotten gold, than I would tarnish the fame of our national ships by directing their employment in the African slave trade.

But, whatever may be the influence of the subj. in controversy upon the original price of land, it must be evident to all men of observation, that its

advantages and no moral effects are very prejudicial to agricultural improvement. Farms in Maryland, notwithstanding the boldness of its climate compared with New York, can be bought, may be purchased at five or six dollars an acre; while I understand, in a more fertile and more advantageously situated in the last mentioned state, still at a rate ten times higher. Had not slavery been introduced into Maryland, her numerous and extensive old fields, which now appear to be waste, than useless, would long since have supported a dense population of industrious freemen, and contributed largely to the wealth and resources of the state. Who has travelled along the line which divides that state from Pennsylvania, and has not observed that no monuments are necessary to mark the boundary; that it is easily traced by following the dividing lines between farms highly cultivated and plantations lying open to the common and overrun with weeds; between stone barns and stone bridges on one side, and stalk cribs and no bridge, on the other; between a neat, blooming, animated, rosy-cheeked peasantry on the one side, and a squalid, slow-motioned black population on the other. Our vote this day will determine which of these descriptions will hereafter best suit the inhabitants of the new world beyond the Mississippi. I entreat gentleman to pause and solemnly consider how deeply are involved the destinies of future generations in the decision now to be made. If I agreed in opinion with the gentleman from Georgia, (Mr. Cobb,) that this amendment does not present an insurmountable barrier against the farther introduction of slaves, that Missouri, after becoming a state, may call a convention and change this state of the constitution—even then I should consider the amendment scarcely less important than if it were a fundamental and unalterable contract—On this subject we have experience, and the result has justified the best hopes of our country. While under the government of congress, slavery was excluded from the territories, now the states north of the Ohio. Our power over their municipal regulations has been withdrawn—they have taken the government into their own hands. But who has not seen the moral effect produced on the inhabitants by the ordinance of 1787? It is as permanent as the soil over which it was established. The exclusion of slavery from all these states is now more effectually ensured by public sentiment than by their constitutional prohibitions. Require the government of Missouri to commence right and the same moral effect will then be produced. No convention of the people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them thereafter. But, be the event as it may, I at least shall have the satisfaction of reflecting, that, if the misfortune of slavery shall be entailed upon this country, every thing in my power will have been done to prevent it.

Mr. Chairman, it was my intention to say something of the moral and political interests involved in this question. But, having already occupied more of your time than was my purpose when I rose to address you, and being admonished, by the multiplicity of important bills which, during the few remaining days of the session, demand our attention, I forbear to discuss or even touch upon those parts of the subject. It moreover is the less necessary, because those views have often been presented to the public; and have doubtless been seriously considered by every member of this committee. The facts and arguments to which I have drawn your attention, more particularly relate to our condition as a federal republic, and our duties to Missouri, arising from the relation in which she stands to the union. While regretting that it has not been in my power to do more ample justice to this important subject, owing in part to the unexpected manner in which it was taken up, I cannot sit down without expressing an earnest hope that our present decision may be such as will promote the permanent union, stability, and security of our country.

SPECH
OR
MR. TALMADGE.

FEBRUARY 10, 1839.

The amendment proposed, was a condition in these words—"And provided also, that the further introduction of slavery or involuntary servitude into the said state, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted—and that all children of slaves born within the said state, after the admission thereof into the union, shall be free, but may be held to service until the age of twenty-five years."

Mr. TALMADGE, of New York rose. Sir, said he, it has been my desire and my intention to avoid any debate on the present painful and unpleasant subject. When I had the honour to submit to this house the amendment now under consideration, I accompanied it with a declaration, that it was intended to confine its operation to the newly acquired territory across the Mississippi; and I then expressly declared, that I would in no manner intermeddle with the slave holding states, nor attempt manumission in any of the original states in the union. Sir, I even went further, and stated, that I was aware of the delicacy of the subject—and that I had learned from southern gentlemen the difficulties and the dangers of having free blacks intermingling with slaves; and, on that account, and with a view to the safety of the white population of the adjoining states, I would not even advocate the prohibition of slavery in the Alabama territory; because, surrounded as it was by slave holding states, and with only imaginary lines of division, the intercourse between slaves and free blacks could not be prevented; and a servile war might be the result.—While we deprecate and mourn over the evil of slavery, humanity and good morals require us to wish its abolition, under circumstances consistent with the safety of the white population. Willingly, therefore, will I submit to an evil, which we cannot safely remedy. I admitted all that had been said of the danger of having free blacks visible to slaves; and therefore did not hesitate to pledge myself that I would neither advise nor attempt coercive manumission. But, sir, all these reasons cease when we cross the bank of the Mississippi, into a territory separated by a natural boundary—a newly acquired territory, never contemplated in the formation of our government, not included within the compromise or mutual pledge in the adoption of our constitution—a new territory acquired by our common fund, and ought justly to be subject to our common legislation.

Sir, when I submitted the amendment now under consideration, accompanied with these explanations, and with these avowals of my intentions and my motive.—I did expect that gentlemen who might differ from me in opinion would appreciate the liberality of my views; and would meet me with moderation, as upon a fair subject for general legislation. I did expect at least that the frank declaration of my views would protect me from harsh expression, and from the unfriendly imputations, which have been cast out upon this occasion. But, sir, such has been the character and the violence of this debate, and expressions of so much intemperance, and of an aspect so threatening have been used, that even silence on my part would ill become me who had submitted to this house the original proposition. While this subject was under debate before the committee of the whole, I did not

take the floor; and I avail myself of this occasion to acknowledge my obligations to my friends, (Mr. Taylor and Mr. Bibb), for the manner in which they supported my amendment, at a time when I was unable to partake in the debate. I had only on that day returned from a journey long in its extent and painful in its occasions; and from an affection of my breast I could not then speak: I cannot yet hope to do justice to the subject, but I do hope to say enough to assure my friends that I have not left them in the controversy; and to convince the opponents of the measure, that their violence has not driven me from the debate.

Sir, the honourable gentleman from Missouri, (Mr. Scott), who has just resumed his seat, has told us of the 1st of March; and has cautioned us to "beware of the fate of Caesar and of Rome"—Another gentleman, (Mr. Cobb), from Georgia, in addition to other expressions of great warmth, has said, that if we persist, the union will be dissolved; and with a look fixed on me has told us; "we have kindled a fire which all the waters of the ocean cannot put out,—which seas of blood can only extinguish."

Language of this sort has no effect on me: my purpose is fixed, it is interwoven with my existence; its durability is limited with my life; it is a great and glorious cause, setting bounds to a slavery the most cruel and debasing the world has ever witnessed; it is the freedom of man; it is the cause of unredeemed and unregenerated human beings.

If a dissolution of the union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come! My hold on life is probably as frail as that of any man who now hears me; but while that hold lasts, it shall be devoted to the service of my country—to the freedom of man. If blood is necessary to extinguish any fire which I have assisted to kindle, I can assure gentlemen, while I regret the necessity, I shall not forbear to contribute my mite. Sir, the violence to which gentlemen have resorted on this subject will not move my purpose, nor drive me from my place. I have the fortune and the honour to stand here as the representative of freemen, who possess intelligence to know their rights,—who have the spirit to maintain them. Whatever might be my own private sentiments on this subject, standing here as the representative of others, no choice is left me. I know the will of my constituents; and regardless of consequences, I will avow it: as their representative I will proclaim their hatred to slavery in every shape—as their representative here will I hold my stand, till this floor, with the constitution of my country which supports it, sinks beneath me—if I am doomed to fall, I shall at least have the painful consolation to believe that I fall, as a fragment in the ruins of my country.

Sir, the gentleman from Virginia, (Mr. Colston,) has accused my honourable friend from New Hampshire, (Mr. Livermore,) of "speaking to the galleries," and by his "language, endeavouring to excite a servile war;" and has ended by saying, "he is not better than Arbuthnot and Ambrister; and deserves no better fate." When I hear such language uttered, upon this floor, and within this house, I am constrained to consider it as hasty and unintended language, resulting from the vehemence of debate, and not really intending the personal indecorum the expressions would seem to indicate. [Mr. Colston asked to explain, and said he had not distinctly understood Mr. T. Mr. Livermore called on Mr. C. to state the expressions he had used. Mr. C. then said, he had no explanation to give.] Mr. T. said he had none to ask—he continued to say, he would not believe any gentleman on this floor would commit so great an indecorum against any member, or against the dignity of this house, as to use such expressions, really intending the meaning which the words seem to import, and which had been uttered against the gentleman from New Hampshire. [Mr. Nelson, of Virginia, in the chair, called to order; and said no personal remarks would be allowed.] Mr. T. said he rejoiced the Chair was at length aroused to a sense of its duties. The

Debate had, for several days, progressed with unequalled violence, and all was in order; but now, when at length this violence on one side is to be resisted, the Chair has discovered it is out of order. I rejoice, said Mr. T. at the discovery, I approve of the admonition, while I am proud to say, it has no relevancy to me. It is my boast that I have never uttered an unfriendly personal remark on this floor; but I wish it distinctly understood, that the immutable laws of self defence will justify going to great lengths; and that, in the future progress of this debate, the rights of defence would be regarded.

Sir, has it already come to this; that in the Congress of the United States—that, in the legislative councils of Republican America, the subject of slavery has become a subject of so much feeling—of such delicacy—of such danger, that it cannot safely be discussed? Are members who venture to express their sentiments on this subject, to be accused of talking to the galleries, with intention to excite a servile war; and of meriting the fate of Arbuthnot and Ambrister? Are we to be told of the dissolution of the union, of civil war, and of seas of blood? And yet, with such awful threatenings before us, do gentlemen, in the same breath, insist upon the encouragement of this evil; upon the extension of this monstrous scourge of the human race?—An evil so fraught with such dire calamities to us, as individuals, and to our nation; and threatening, in its progress, to overwhelm the civil and religious institutions of the country, with the liberties of the nation; ought, at once to be met, and to be controlled. If its power, its influence, and its impending dangers, have already arrived at such a point, that it is not safe to discuss it on this floor; and it cannot now pass under consideration as a proper subject for general legislation; what will be the result when it is spread through your widely extended domain? Its present threatening aspect, and the violence of its supporters, so far from inducing me to yield to its progress, prompt me to resist its march. Now is the time. It must now be met, and the extension of the evil must now be prevented; or the occasion is irrecoverably lost, and the evil can never be controlled.

Sir, extend your views across the Mississippi, over your newly acquired territory—a territory so far surpassing, in extent, the limits of your present country, that that country which gave birth to your nation, which achieved your revolution, consolidated your union, formed your constitution, and has subsequently acquired so much glory, hangs but as an appendage to the extended empire over which your republican government is now called to bear sway. Look down the long vista of futurity! see your empire, in extent unequalled, in advantageous situation without a parallel, and occupying all the valuable part of one continent. Behold this extended empire, inhabited by the hardy sons of American freemen, knowing their rights, and inheriting the will to protect them—owners of the soil on which they live, and interested in the institutions which they labour to defend; with two oceans laving your shores, and tributary to your purposes, bearing on their bosoms the commerce of your people:—comprised to yours, the governments of Europe dwindle into insignificance, and the whole world is without a parallel. But, sir, reverse this scene: people this fair domain with the slaves of your planters; extend slavery, this bane of man, this abomination of heaven, over your extended empire, and you prepare its dissolution: you turn its accumulated strength into positive weakness; you cherish a canker in your breast; you put poison in your bosom; you place a vulture preying on your heart—nay, you whet the dagger and place it in the hands of a portion of your population, stimulated to use it, by every tie, human and divine. The envious contrast between your happiness and their misery; between your liberty and their slavery, must constantly prompt them to accomplish your destruction. Your enemies will learn the source and the cause of your weakness. As often as external dangers shall threaten, or internal commotions await you, you will then realize, that, by your own procurement, you have placed amidst your families, and in the bosom of your country, a population producing at once the greatest cause of

individual danger, and of national weakness. With this defect, your government must crumble to pieces, and your people become the tools of the world.

Sir, we have been told, with apparent confidence that we have no right to annex conditions to a state on its admission into the union; and it has been urged that the proposed amendment, prohibiting the further introduction of slavery, is unconstitutional. This position, asserted with so much confidence, remains unsupported by any argument, or by any authority derived from the constitution itself. The constitution strongly indicates an opposite conclusion, and seems to contemplate a difference between the old and new states. The practice of the government has sanctioned this difference in many respects.

The third section of the fourth article of the constitution says, "*new states may be admitted by the Congress into this Union;*" and it is silent as to the terms and conditions upon which the new states may be so admitted. The fair inference from this is, that the Congress which might admit, should prescribe the time and the terms of such admission. The tenth section of the first article of the constitution says, "*the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808.*" The words "*now existing*" clearly shew the distinction for which we contend. The word *slave* is nowhere mentioned in the constitution; but this section has always been considered as applicable to them, and unquestionably reserved the right to prevent their importation into any *new state* before the year 1808.

Congress, therefore, have power over the subject, probably as a matter of legislation, but more certainly as a right, to prescribe the time and the condition upon which any new state may be admitted into the family of the union. Sir, the bill now before us, proves the correctness of my argument. It is filled with conditions and limitations. The territory is required to take a census; and is to be admitted only on condition that it have 40,000 inhabitants. I have already submitted amendments preventing the state from taxing the lands of the United States, and declaring that all navigable waters shall remain open to the other states, and be exempt from any tolls or duties. And my friend, (Mr. Taylor,) has also submitted amendments prohibiting the state from taxing soldiers' lands for the period of five years. And to all these amendments we have heard no objection—they have passed unanimously. But now, when an amendment prohibiting the further introduction of slavery, is proposed, the whole house is put in agitation; and we are confidently told it is unconstitutional to annex conditions to the admission of a new state into the union. The result of all this is, that all amendments and conditions are proper, which suit a certain class of gentlemen; but whatever amendment is proposed, which does not comport with their interests or their views, is unconstitutional, and a flagrant violation of this sacred charter of our rights. In order to be consistent, gentlemen must go back and strike out the various amendments to which they have already agreed. The constitution applies equally to all, or to none.

Sir, we have been told that this is a new principle for which we contend, never before adopted, or thought of. So far from this being correct, it is due to the memory of our ancestors to say, it is an old principle, adopted by them as the policy of our country. Whenever the United States have had the right and the power, they have heretofore prevented the extension of slavery. The state of Kentucky and Tennessee were taken off from other states, and were admitted into the union without condition because their lands were never owned by the United States. The territory north west of the Ohio is all the land which ever belonged to them. Shortly after the cession of those lands to the union, congress passed, in 1787, a compact, which was declared to be unalterable, i.e., the sixth article of which provides that "*There shall be neither slavery nor involuntary servitude in the said territory; otherwise than as a punishment for crimes, whereof the parties shall have been duly convicted.*" In

pursuance of this compact, all the states formed from that territory have been admitted into the union upon various conditions, and amongst which the sixth article of this compact is included as one.

Let gentlemen also advert to the law for the admission of the state of Louisiana into the union: they will find it filled with conditions. It was required not only to form a constitution upon the principles of a republican government, but it was required to contain the "fundamental principles of civil and religious liberty." It was even required as a condition of its admission, to keep its records, and its judicial and its legislative proceedings in the English language; and also to secure the trial by jury, and to surrender all claim to unappropriated lands in the territory, with the prohibition to tax any of the United States' lands.

After this long practice and constant usage to annex conditions to the admission of a state into the union, will gentlemen yet tell us it is unconstitutional, and talk of our principles being novel and extraordinary? It has been said, that if this amendment prevails, we shall have an union of states possessing unequal rights. And we have been asked, whether we wished to see a "*chequered union?*" Sir, we have such a union already. If the prohibition of slavery is the denial of a right, and constitutes a chequered union, gladly would I behold such rights denied, and such a chequer spread over every state in the union. It is now spread over the states north west of the Ohio, and forms the glory and the strength of those states. I hope it will be extended from the Mississippi to the Pacific Ocean.

Sir, we have been told that the proposed amendment cannot be received, because it is contrary to the treaty and cession of Louisiana. "Article 3. The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, their property, and the religion which they profess." I find nothing, said Mr. T. in this article of the treaty, incompatible with the proposed amendment. The rights, advantages, and immunities of citizens of the United States are guaranteed to the inhabitants of Louisiana. If one of them should choose to remove to Virginia, he could take his slaves with him; but if he removes to Indiana, or any of the states north west of the Ohio, he cannot take his slaves with him. If the proposed amendment prevails, the inhabitants of Louisiana, or the citizens of the United States, can neither of them take slaves into the state of Missouri. All, therefore, may enjoy equal privileges. It is a disability, or what I call, a blessing, annexed to the particular district of country, and in no manner attached to the individual. But, while I have no doubt that the treaty contains no solid objection against the proposed amendment, if it did, it would not alter my determination on the subject: The senate, or the treaty-making power of our government, have neither the right, nor the power to stipulate by a treaty, the terms upon which a people shall be admitted into the union. This house have a right to be heard on the subject. The admission of a state into the union is a legislative act, which requires the concurrence of all the departments of legislative power. It is an important prerogative of this house, which I hope will never be surrendered.

The zeal and the ardour of gentlemen, in the course of this debate, have induced them to announce to this house, that, if we persist, and force the state of Missouri to accede to the proposed amendment, as the condition of her admission into the union, she will not regard it; and, as soon as admitted, will alter her constitution, and introduce slavery into her territory. Sir, I am not prepared, nor is it necessary to determine, what would be the consequence of

such a violation of faith—of such a departure from the fundamental condition of her admission into the union. I would not cast upon a people so foul an imputation, as to believe they would be guilty of such fraudulent duplicity. The states north west of the Ohio have all regarded the faith and the condition of their admission; and there is no reason to believe the people of Missouri will not also regard theirs. But, sir, whenever a state admitted into the union shall disregard and set at naught the fundamental conditions of its admission, and shall, in violation of all faith, undertake to levy a tax upon lands of the United States, or a toll upon their navigable waters, or introduce slavery where congress have prohibited it, then it will be in time to determine the consequence. But, if the threatened consequences were known to be the certain result, yet would I insist upon the proposed amendment. The declaration of this house, the declared will of the nation to prohibit slavery, would produce its moral effect; and stand as one of the brightest ornaments of our country. Sir, it has been urged with great plausibility, that we should spread the slaves now in our country, and thus spread the evil, rather than confine it to its present districts. It has been said, we should thereby diminish the dangers from them, while we increase the means of their living, and augment their comforts. But, you may rest assured, that this reasoning is fallacious; and that, while slavery is admitted, the market will be supplied. Our coast, and its contiguity to the West Indies and the Spanish possessions, render easy the introduction of slaves into our country. Our laws are already highly penal against their introduction; and yet, it is a well known fact, that about fourteen thousand slaves have been brought into our country this last year.

Since we have been engaged in this debate, we have witnessed an elucidation of this argument, of bettering the condition of slaves, by spreading them over the country. A slave driver, a trafficker in human flesh, as if sent by Providence, has passed the door of your capitol, on his way to the west; driving before him about fifteen of these wretched victims of his power, collected in the course of his traffic, and by their removal, torn from every relation and from every tie, which the human heart can hold dear.—The males, who might raise the arm of vengeance, and retaliate for their wrongs, were handcuffed and chained to each other; while the females and children were marshaled in their rear, under the guidance of their driver's whip! Yes, sir, such has been the scene witnessed from the windows of congress hall, and viewed by members who compose the legislative councils of Republican America!

In the course of the debate on this subject, we have been told that, from the long habit of the southern and western people, the possession of slaves has become necessary to them, and an essential requisite in their living. It has been urged, from the nature of the climate and soil of the southern countries, that the lands cannot be occupied or cultivated without slaves. It has been said that the slaves prosper in those places, and that they are much better off there than in their own native country. We have even been told that if we succeed, and prevent slavery across the Mississippi, we shall greatly lessen the value of property there, and shall retard for a long series of years, the settlement of that country.

Sir, said Mr. T. if the western country cannot be settled without slaves, gladly would I prevent its settlement till time shall be no more. If this class of arguments is to prevail, it sets all morals at defiance, and we are called to legislate on the subject, as a matter of mere personal interest. If this is to be the case, repeal all your laws prohibiting the slave trade; throw open this traffic to the commercial states of the east; and, if it better the condition of these wretched beings, invite the dark population of benighted Africa, to be translated to the shores of Republican America. But I will not cast upon this or upon that gentleman any imputation so ungracious as the conclusion to which their arguments would necessarily tend. I do not believe any gentleman on

this floor, would here advocate the slave trade, or maintain in the abstract the principles of slavery. I will not outrage the decorum, nor insult the dignity of this house, by attempting to argue in this place, as an abstract proposition, the moral right of slavery. How gladly would the "legitimates of Europe" dash, to find an American Congress in debate on such a question!

As an evil brought upon us without our own fault, before the formation of our government, and as one of the sins of that nation from which we have revolted, we must of necessity legislate upon this subject. It is our business to legislate, as never to encourage, but always to control this evil; and, while we strive to eradicate it, we ought to fix its limits, and render it subordinate to the safety of the white population, and the good order of civil society.

Sir, on this subject the eyes of Europe are turned upon you. You boast of the freedom of your constitution and your laws; you have proclaimed, in the Declaration of Independence, "That all men are created equal: that they are endowed by their Creator with certain unalienable rights—that amongst these are life, liberty, and the pursuit of happiness;" and yet you have slaves in your country. The enemies of your government, and the legitimates of Europe, point to your inconsistencies, and blazon your supposed defects. If you allow slavery to pass into territories where you have the lawful power to exclude it, you will justly take upon yourself all the charges of inconsistency; but confine it to the original slave holding states, where you found it at the formation of your government, and you stand acquitted of all imputation.

This is a subject upon which I have great feeling for the honor of my country. In a former debate upon the Illinois constitution, I mentioned that our enemies had drawn a picture of our country, as holding in one hand the Declaration of Independence, and with the other brandishing a whip over our affrighted slaves. I then made it my boast that we could cast back upon England the accusation—that she had committed the *original sin* of bringing slaves into our country. I have since received, through the post office, a letter post-marked in South Carolina, and signed "*A native of England*," desiring that, when I had occasion to repeat my boast against England, I would also state that she had atoned for her original sin, by establishing in her slave colonies a system of humane laws, meliorating their condition, and providing for their safety; while America had committed the secondary sin of disregarding their condition, and had even provided laws, by which it was not murder to kill a slave. Sir, I felt the severity of the reproof; I felt for my country. I have inquired on the subject, and I find such were formerly the laws in some of the slave holding states; and that even now, in the state of S. Carolina, by law, the penalty of death is provided for stealing a slave, while the murder of a slave is punished with a trivial fine. Such is the contrast and the relative value which is placed, in the opinion of a slave holding state, between the property of the master and the life of a slave.

Sir, gentlemen have undertaken to criminate, and to draw odious contrasts between different sections of our country—I shall not combat such arguments; I have made no pretence to exclusive morality on this subject, either for myself or my constituents; nor have I cast any imputations on others. On the contrary, I hold that mankind under like circumstances are alike the world over. The vicious and unprincipled are confined to no district of country; and it is for this portion of the community we are bound to legislate. When honorable gentlemen inform us we overrate the cruelty and dangers of slavery; and tell us that their slaves are happy, and contented, and would even contribute to their safety, they tell us but very little; they do not tell us, that while their slaves are happy, the slaves of some depraved and cruel wretch, in their neighbourhood, may not be stimulated to revenge, and thus involve the country in ruin. If we had to legislate only for such gentlemen as are now embraced within my view, a law against robbing the mail

would be a disgrace upon the nation; and as useless, I would tear it from the pages of your statute book; yet sad experience has taught us the necessity of such laws,—and honour, justice and policy, teach us the wisdom of legislating to limit the extension of slavery.

In the zeal to draw sectional contrasts, we have been told by one gentleman, that gentlemen from one district of country talk of their morality, whilst those of another practise it. And the superior liberality has been asserted of southern gentlemen over those of the north, in all contributions to moral institutions for Bible and Missionary Societies. Sir, I understand too well the pursuit of my purpose, to be decoyed and drawn off, into the discussion of a collateral subject. I have no inclination to controvert these assertions of comparative liberality. Although I have *... idea* they are founded in fact, yet, because it better suits the object of my present argument, I will, on this occasion, admit them to the fullest extent. And what is the result? Southern gentlemen, by their superior liberality in contributions to moral institutions, justly stand in the first rank, and hold the first place in the brightest page of the history of our country. But turn over this page, and what do you behold? You behold them contributing to teach the doctrines of Christianity in every quarter of the globe.—You behold them legislating to secure the ignorance and stupidity of their own slaves! You behold them prescribing, by law, penalties against the man that dares teach a negro to read! Such is the statute law of the state of Virginia. [Mr. Bassett and Mr. Tyler said that there was no such law in Virginia.]

No, said Mr. Talmadge, I have mis-spoken myself: I ought to have said such is the statute law of the state of Georgia. Yes, while we hear of a liberality which civilizes the savages of all countries, and carries the Gospel alike to the *Hottentot* and the *Hindee*, it has been reserved for the republican state of Georgia, not content with the care of its overseers, to legislate to secure the oppression and the ignorance of their slaves! The man who there teaches a negro to read, is liable to a criminal prosecution. The dark benighted beings of all creation profit by our liberality, save those of our own plantations. Where is the missionary who possesses sufficient hardihood to venture a residence to teach the slaves of a plantation? Here is the stain! Here is the stigma! which fastens upon the character of our country: and which in the appropriate language of the gentleman from Georgia, (Mr. Cobb,) *all the waters of the ocean cannot wash out; which seas of blood can only take away.*

Sir, there is yet another, and an important point of view, in which this subject ought to be considered. We have been told by those who advocate the extension of slavery into Missouri, that any attempt to control this subject by legislation, is a violation of that faith and mutual confidence upon which our union was formed and our constitution adopted. This argument might be considered plausible, if the restriction was attempted to be enforced against any of the slave holding states, which had been a party in the adoption of the constitution. But it can have no reference or application to a new district of country recently acquired, and never contemplated in the formation of government, and not embraced in the mutual concessions and declared faith upon which the constitution was adopted. The constitution provides, that the representatives of the several states to this house shall be according to their number, including *three fifths* of the slaves in the respective states. This is an important benefit yielded to the slave holding states, as one of the mutual sacrifices for the Union. On this subject, I consider the faith of the Union pledged; and I never would attempt coercive manumission in a slave holding state.

But none of the causes which induced the sacrifice of this principle, and which now produce such an unequal representation on this floor, of the free population of the country, exist between us and the newly acquired ter-

ritory across the Mississippi. That portion of country has no claims to such an unequal representation, unjust in its results upon the other states. Are the numerous slaves in extensive countries, which we may acquire by purchase, and admit as states into the Union, at once to be represented on this floor, under a clause of the constitution, granted as a compromise and a benefit to the southern states which had borne part in the revolution? Such an extension of that clause in the constitution would be unjust in its operations, unequal in its results, and a violation of its original intention. Abstract from the moral effects of slavery, its political consequences in the representation under this clause of the constitution, demonstrate the importance of the proposed amendment.

Sir, I shall bow in silence to the will of the majority, on which ever side it shall be expressed: yet I confidently hope that a majority will be found on the side of an amendment, so replete with moral consequences, so pregnant with important political results.

[The amendment was carried in the House, 87 to 76—it was rejected in the Senate, and each house adhering to their vote, the Missouri Bill was thus lost, and the territory refused admission as a state in the Union.]

REPORT
OF
A COMMITTEE
OF THE
DELAWARE SOCIETY,

RESPECTING THE CONSTITUTIONAL POWERS OF CONGRESS, TO
PROHIBIT OR RESTRICT SLAVERY WITHIN THE TERRITO-
RIES BELONGING TO THE UNITED STATES, OR NEW STATES
ON THEIR ADMISSION INTO THE FEDERAL COMPACT.

The committee to whom was referred the subject of the powers of congress, to restrict slavery in the proposed state of Missouri and the territory of Arkansaw, respectfully submit the following report:

The committee are deeply impressed with the importance of the subject submitted to their consideration. A question, arising under the constitution of the United States, the great charter of our liberties, involving the respective powers and rights of the federal and state governments; a question, upon the issue of which depends the probable welfare and happiness, or the certain misery of so many millions of the descendants of Africa; and the decision of which must greatly affect, if not entirely determine, the character and duration of the American republic; demands the most serious attention, and the most dispassionate and candid discussion.

Your committee have therefore viewed with much regret and alarm, the temper and disposition that were exhibited in the debate upon this subject, in congress at its last session. Whilst some of the members, abandoning the open field of candid inquiry, and fair argument, contended, that any act of congress restricting slavery in the proposed state of Missouri, would be disregarded and contemned by the people, and thereby be rendered nugatory; others assumed the tone of defiance, and the language of menace and contumely.

If this momentous question is to be decided under the influence of feelings, such as those that have been recently manifested, the advocates for the restriction of slavery cannot but tremble for the result; and still more deeply deplore the fate of those unoffending and unhappy beings, who will become its certain and miserable victims. It therefore becomes highly important, that the public attention should be immediately and properly directed to the subject; and that the opinions and senses of the legislatures of the respective states, whose weight and influence in the scale of the Union, are to be materially and deeply affected by the decision of the question, should be speedily ascertained, and openly expressed.

There has been, in the opinion of your committee, a period in our national history, at which the public voice on this question would not have been divided. When, under the wrongs and tyranny practised towards this country by the government of Great Britain, the hearts and minds of the

citizens were feelingly alive upon the subject of civil liberty; when it was unanimously declared, by the Thirteen United States of America, " that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; and that governments derive their just powers from the consent of the governed;" if it had been suggested, that one object of the union, was not only to perpetuate the odious state of slavery, but to extend it beyond its present limits; that, so far from a right being reserved to the federal government to restrict the evil, they might be compelled to aid its extension; the accusation would have been repelled with indignation, and considered a libel upon the American character.

Many of those illustrious characters who framed our constitution, it is fair to presume, would have preferred the evils under which our country then struggled, to the adoption of a constitution which might entail bondage upon so many millions, and spread it over a country of such wide extent, as would most certainly become the property of the United States, and be incorporated into the Union. But, more clearly to illustrate the feelings and opinions which prevailed upon this subject, we refer to acts, which leave no room for doubt or misapprehension.

On the sixth of April, 1776, even previous to the declaration of our independence, the importation of slaves was expressly prohibited. Upon the cession to the United States, of the territory north west of the river Ohio, a cession too, it is to be remarked, to which a slave holding state, Virginia, was a party, an ordinance was passed, by congress, on the thirteenth of July, 1785, the sixth article of which is in the following words: "There shall be neither slavery, nor involuntary servitude, in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted. Provided always, that any person, escaping into the same, from whom labour, or servitude, is lawfully claimed in any one of the *original* states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his, or her labour, or servitude, as aforesaid." These acts, in the opinion of your committee, do not require explanation or comment. They show, as plainly as acts can show, that previous to the adoption of the constitution, Congress, deriving its powers from the articles of confederation, which, as far as it regards this subject, gave less jurisdiction than they now possess under the present constitution, did possess the power, and exercise the right, of legislation on the subject of slavery, to the fullest extent, so far as it did not affect those who were then within the actual limits of the states composing the confederation. The existence of this power was not then denied; against its exercise there were no objections.

These acts, exhibiting a contemporaneous exposition of the powers of Congress over the subject under consideration, afford the fairest, and best rule of construction that can be given. It is the rule by which judges are guided in the construction of statutes, and in the application of the principles, and maxims of the common law; and it is the rule, to which common sense would refer, to ascertain the meaning of any ancient grant of power, or charter of rights, about which doubts could arise.

The question then fairly occurs, in what respect has the present constitution of the United States abridged, altered or destroyed, the powers which congress possessed and exercised over this subject, under the articles of confederation? By the second article of confederation, "each state retains its sovereignty, freedom, and independence; and every power, jurisdiction, and right, which is not, by this confederation, expressly delegated to the United States, in Congress assembled." Nor is there any provision to be found in the act of confederation, authorizing congress to legislate upon the subject of the importation of slaves, or their migration; or to admit new states, except Canada should agree to the confederation, unless such admission be agreed to by nine states; nor to pass laws, or regulations, in regard to the

territory of the United States. Hence it will appear, that far less power was delegated to Congress, by the articles of confederation, than is now possessed under the present constitution. For the power which Congress now possess under the constitution, the committee beg leave to refer to the ninth section of the first article of the constitution, which provides, that "the migration, or importation, of such persons, as any of the states, *now* existing, shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808." The peculiar phraseology of this clause is worthy of remark. In no other part of the constitution where the states are mentioned, are they mentioned as the states *now* existing.

It is just, therefore, to infer, that the importation of slaves, and of course the existence of slavery, was strictly limited to the states then existing; and that no state or territory, that should afterwards be incorporated into the Union, could be considered, in regard to this clause of the constitution, in the same light as the states then composing the Union. So, also, in the ordinance of 1787, already alluded to, we observe a similar phrasology, where it provides, that any person escaping into that territory, from whom labour, or service, is lawfully claimed in any one of the *original states*, such fugitive, may be lawfully reclaimed, &c.: holding the same language, and conveying the same idea, of the restriction of servitude to the states *then* existing.

Congress have not been remiss in exercising a part of the power, granted in the last recited clauses of the constitution. Laws have been enacted, prohibiting the importation of slaves since the year 1808, under very severe penalties. In regard to their migration, though no act of congress has yet been made to prohibit it, yet an act has been passed, regulating the mode of their conveyance and passage coastwise; which clearly indicates, that Congress considered itself as having the power of legislating on the subject. We refer to the eighth and ninth sections of the act passed March 1st, 1807, which enacts, "that the master of any vessel of forty tons or more, from and after the first day of January, 1808, sailing coastwise, having on board any negro, mulatto, or person of colour, for the purpose of transporting them to be sold as slaves, shall subscribe duplicate manifests of every such negro, and shall severally swear that the persons therein specified, were not brought into the United States after the first day of January, 1808, and that under the laws of the state, they were held to service or labour." Under the term "persons," therefore, mentioned in the ninth clause of the first article of the constitution, it has been considered by Congress, that slaves, negroes and mulattoes, are meant and included; and that their migration, or importation, to use the words of the constitution, may be prohibited after the year 1807.

With regard to the true meaning and intent of the words, migration and importation, as used in the constitution, your committee have no doubt. They do not find that even in common parlance, or by authors of approved authority, they are used or considered as synonymous. Importation, is the act of bringing into a country from abroad; migration, is the act of changing place in the same country. But, had it been intended to vest in Congress by this clause, no other or further power than that of prohibiting importation, the meaning could not have been more simply or plainly expressed, than by the term importation alone. The word migration, being tautological, would not have been used.

But, whatever doubts may be entertained upon this branch of the subject, your committee are of opinion, there can be none, as to the power of congress to restrict slavery in the territories of the United States, and in those states which are to be admitted into the Union. In the third section of the fourth article of the constitution, it is thus provided: "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States,"

and in the same section it is also provided, that new states may be admitted by Congress into their Union. Language could hardly be found to express a more full and ample delegation of power, than is contained in these clauses. To dispose of or sell a territory, to make all needful rules and regulations respecting it, or to admit it into the Union, seem to be powers, that confer upon Congress as large a discretion as can well be imagined or required, so far as they relate to the subject under consideration. Hence, should a territory become burdensome or unprofitable, it may be disposed of; should a new state be proposed, the citizens of which would make worthy members of our republic, whose constitution should be republican, and contain no provision inconsistent with, or repugnant to, those sacred principles of civil liberty, recognized and adopted in our bill of rights, and sanctioned by our constitution; Congress may admit them into the Union.

Should Congress consider slavery to be inconsistent with, or inimical to republican institutions, and a new state should refuse to restrict its existence; or should a new state make no provision for that great safeguard and palladium of civil liberty, the right of trial by jury; should there be no provisions for protecting the weak from the violence of the strong, or the poor from the oppression of the rich; or should the admission of a new state be considered as detrimental to any of those now composing the Union, the blood and treasure of whose citizens have been expended in rearing and supporting the noble fabric of our constitution; all or any of these reasons would not simply justify, but demand their rejection from the Union.

The constitution does not give to any people or territory, the power of claiming admission into the Union as a right: in the view of the committee, the only delegated power in regard to this subject, is exclusively vested in Congress, to be exercised at their discretion.

But whatever may be the discretionary power of Congress, as to the admission of new states, and of making all needful rules and regulations respecting its territories; it has been said, it cannot be exercised in relation to the people of Missouri, in consequence of the provisions contained in the treaty and cession of Louisiana. The third article of that treaty provides that, "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, their property, and the religion which they profess." Upon this objection your committee observe, that treaties like other contracts, are to be construed and performed according to the true intent and meaning of the agreement, and the respective powers of the contracting parties. In regard to this particular question, it is not unfair to presume, that it never constituted a subject of deliberation with either party.

It is a matter of course, in treaties of cession, to provide for the protection of the inhabitants of the ceded country, in their property, persons and religion; and that they shall be admitted to the enjoyment of the laws and privileges of the country to which they are ceded. But these customary clauses are not meant to abridge or destroy the right of the government to make such needful rules and regulations, and to enact such laws respecting the ceded territory and its inhabitants, as are within the general scope of their constitutional powers. It is not pretended that the French government, in making this treaty, meant to stipulate for any particular form of government or code of laws, under which the ceded territory was to be held or governed. It was just and proper on their part, to provide, that the inhabitants of the ceded territory should not be left without the pale of a government by which they might be protected.

But had it been required of the government of France, to specify whether it was intended by those words, "the inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States," to deprive Congress of the power of restricting slavery; the obvious and natural reply in the opinion of your committee would have been, that this was a subject of future legislation, to be regulated and determined according to the principles of the federal constitution. Their language would have been, "we intend to provide for the present inhabitants of the territory, the protection of your laws, and the benefit of becoming members of your republic, in the same manner that they have been enjoyed by the inhabitants of other territories belonging to the United States, and which have been admitted into the Union." *It is not provided that the inhabitants of the ceded territory, are to be admitted according to their own will or pleasure, and to enjoy the immunities and advantages of citizens of the United States, according to their own caprice, or under such conditions as they may require; but they are to be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution.*

What, it will be then asked, are the principles of the federal constitution applicable to this subject? Your committee have already shown, that one provision in the constitution is, that Congress have the power to make all needful rules and regulations respecting the territory of the United States, which includes a right to restrict slavery; and that in the exercise of this power, slavery was abolished in the territory north west of the Ohio; that they have the power also to prohibit the migration and importation of slaves, and the power of admitting new states at their discretion. And if Congress may admit new states according to its discretion, it most clearly appears, that the stipulation in the treaty, "the inhabitants of the ceded territory should be incorporated into the Union," is subject to the control and exercise of this discretionary power. The contracting parties, both apprised of these constitutional powers in Congress, knowing that they could not be limited or destroyed by a treaty, have therefore made the admission of the ceded territory *dependent on*, and their incorporation into the Union to be *according to*, the principles of the federal constitution. Your committee are therefore of the opinion, that the treaty does not, nor was it intended by the contracting parties that it should, contain any provision, inconsistent with, or derogatory to, the power that Congress possess over this subject under the constitution.

It is further to be observed, that by the treaty, the inhabitants of the ceded territory are to be admitted to the enjoyment of all the privileges, advantages, and immunities of citizens of the United States. In the *character* of citizens of the United States, as members of the federal compact, slaves cannot be held. They can be held only by citizens of some particular states, deriving their power solely from the state government. On this point of distinction between citizens of the United States, and citizens of particular states, your committee can perceive no ground for contrariety of opinion. For it has been most strenuously contended by the opponents of restriction, that the states have reserved to themselves, the exclusive power of continuing or abolishing the rights and advantages of its citizens to be derived from the holding of slaves: and that the constitution confers no authority on Congress to legislate upon the subject, or in any manner to affect this species of property. If the constitution confers no power, Congress can impart no right to citizens of the United States in regard to slavery; and it would therefore be absurd to say, that being admitted to all the rights, advantages, and immunities of the citizens of the United States in the language of the treaty, would give to the inhabitants of the ceded territory the right of holding slaves. But, it is to be remarked, that the treaty only stipulates for the ad-

inhabitants of the ceded territory, according to the principles of the federal constitution. Congress, therefore, is the tribunal to decide what are those principles; and, whatever may be the wishes or opinions of the French government, or of the inhabitants of the ceded territory upon this subject, they are bound in good faith to submit to, and abide by this decision. This is the tribunal established by the constitution, to decide whether a new state may be admitted into the Union. In regard to this subject, the jurisdiction of this tribunal is exclusive and paramount; and so far as the treaty-making power should attempt to control, or prescribe terms or conditions to the full exercise of this jurisdiction, its acts would be nugatory and unconstitutional. Your committee, however, do not admit the idea, that in the present case the provisions of the treaty are, in any respect, inconsistent with the full and unqualified exercise, of the power which Congress possess over the subject.

But it may be asked, what principles are to be found in the federal constitution, upon which the inhabitants of the ceded territory can claim a right to the unmitigated and unrestricted power, of holding their coloured population in perpetual bondage? In the first clause of the constitution, its principles and views are most fully developed, and forcibly expressed. "We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." Is it, we demand, to establish justice, that they insist upon the right, not merely to hold those who were slaves upon the cession of the territory, but to entail slavery upon their posterity, without the power or even the hope of melioration?

Is it to insure domestic tranquillity, that they wish to create a population, which, in numbers and physical force, must have greatly the preponderance; and who are not bound to the state or their masters by any sense of moral obligation, the ties of affection, or the feelings of gratitude?

Upon this subject we will not direct their attention to the contemplation of scenes from which the heart recoils with horror; but we ask them to inquire of the citizens of those states where slavery exists in its mildest forms, from whence arise their most anxious thoughts and melancholy forebodings? Is it to promote the general welfare, and secure the blessings of liberty to themselves and their posterity, that they wish to perpetuate and extend a species of servitude that directly promotes luxury and indolence; and whose consequences are so inimical to those simple habits of life, that equality of condition, and those humble virtues, without which republics cannot exist? Your committee therefore conclude, that the principles of the federal constitution do not comport with the existence of slavery; but are opposed to its exercise in whatever form or manner it can be practised.